

# Exhibit “A”

## Affidavit

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**DEBRA JOYCE CLACKLER, #159516,**

**Plaintiff,**

**v.**

**GLADYS DEESE, FRANK ALBRIGHT  
and DR. SAMUEL ENGLEHARDT,**

**Defendants.**

**CIVIL ACTION NO.  
2:06-CV-172-WHA**

**AFFIDAVIT OF SAMUEL ENGLEHARDT, M.D.**

**STATE OF ALABAMA**

**COUNTY OF MONTGOMERY**

Before me, the undersigned Notary Public, personally appeared SAMUEL ENGLEHARDT, M.D. who, after being duly sworn, states as follows:

1. My name is Samuel Englehardt, M.D. I am over the age of nineteen (19) years, and I have personal knowledge of the information contained in this affidavit.
2. I am a licensed physician in the state of Alabama. I am currently employed by as a physician at Julia Tutwiler Prison for Women ("Tutwiler").
3. Debra Joyce Clackler ("Clackler") is an inmate currently incarcerated at Tutwiler.
4. On or about February 24, 2006, Clackler filed a Complaint, initiating this civil action against me. A true and correct copy of the Complaint initiating this civil action is attached hereto as **Exhibit "1."**
5. As of the date of this Motion, Clackler has not served me with the Complaint. Rather, the Certified Mail Return Receipt shows that an individual named "Susie Mims" signed

the Certified Mail Return Receipt on or about May 3, 2006 (the Certified Mail Return Receipt is not dated, but it was entered into the Court's record on May 3, 2006).

6. I do not recall ever being introduced to, meeting or otherwise knowing any individual by the name of "Susie Mims." I do not know where "Susie Mims" lives or works. I do not recall ever communicating with an individual by the name of "Susie Mims" in person, in writing, via telephone or by any other means.

7. No individual by the name of "Susie Mims" ever notified me that she had signed a Certified Mail Return Receipt or received any mail or package addressed to me. I did not authorize any individual to accept service of process of the Summons and Complaint on my behalf. "Susie Mims" was not authorized in any way by me to accept service of the Summons and Complaint on my behalf at any time, including May 3, 2006 (the date on which the Certified Mail Return Receipt signed by "Susie Mims" was entered into the Court's record).

8. I learned of "Susie Mims" apparent acceptance of the Summons and Complaint on or about May 5, 2006. At no time prior to May 5, 2006, had I received by mail, facsimile, hand-delivery, Federal Express or any other means any copy of the Summons and Complaint in this action.

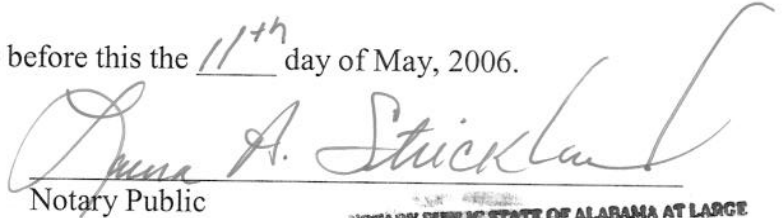
9. I have not attempted in any way to avoid service of process or otherwise evade the jurisdiction of the Court presiding over this action. I have maintained my normal work schedule since the filing of this action and have not refused any mail or other deliveries of any kind sent to my attention at Tutwiler or at my residence.

Further affiant saith not.

*[The remainder of this page is intentionally left blank.]*

  
Samuel Englehardt, M.D.

SWORN TO and SUBSCRIBED before this the 11<sup>th</sup> day of May, 2006.

  
Dana A. Stickland

Notary Public

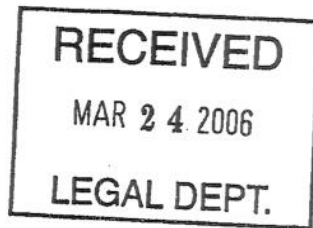
My Commission Expires

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Dec 1, 2009  
BONDED \$1500 NOTARY PUBLIC UNDERWRITERS

(SEAL)

# Exhibit “1”

## Complaint



United States District Court  
for the Middle District of Alabama

RECEIVED

2006 FEB 24 A 9:33

FILED BY: [illegible]  
CLERK OF COURT  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
MOBILE, AL

Debra Joyce Clackler 159516  
Full name and prison number of plaintiff

v.

Civil Action Number: 2:06CV172-A

Warden Gladys Deese  
Deputy Warden Frank Albright  
Dr. Samuel Englehardt  
Name of persons who violated my  
constitutional rights.

I have not begun any other lawsuits in state or federal court dealing with  
the same or similar facts involved in this action.

I have not begun any other lawsuits in state or federal court relating to  
my imprisonment.

I am presently confined at Julia Tutwiler Prison for Women, 8966 US  
Highway 231, Wetumpka, AL 36092.

This incident occurred at Julia Tutwiler Prison for Women, 8966 US  
Highway 231, Wetumpka, AL 36092.



Name and address of individuals who violated my constitutional rights:

- (1) Warden Gladys Deese, 8966 US Highway 231, Wetumpka, AL 36092
- (2) Deputy Warden Frank Albright, 8966 US Highway 231, Wetumpka, AL 36092
- (3) Dr. Samuel Englehardt, 8966 US Highway 231, Wetumpka, AL 36092

Said violation occurred from April 6, 2004 until the present time.

Dr. Englehardt exercised deliberate indifference when he ignored obvious medical conditions, lipomas and bowel obstruction and low heart rate. Left untreated, the bowel obstruction could cause colon cancer, and the low heart rate could cause congestive heart failure. He chose to treat the bowel obstruction by prescribing laxatives and monitoring, an easier but less effective method of medical care.

Deliberate indifference was also exercised when I was transported to Louisiana on October 14, 2004, and denied access to medical treatment.

I was deprived of my civil rights under color of state law arising from inadequate medical treatment accorded by Dr. Englehardt while incarcerated at Julia Tutwiler Prison from April 6, 2004, until the present time. After numerous requests, I was seen on several occasions by Dr. Englehardt, who ignored two serious medical conditions and continually treated the symptoms. The responses that I received has not provided the treatment needed. Due to my incarceration, I am totally dependent upon the prison doctors for medical attention or referral to an outside doctor.

My allegation that my constitutional rights were violated is based on

inadequate medical care.

I began having abdominal pain, severe constipation, nausea and vomiting. I also discovered a mass in my left side. I saw Dr. Englehardt on April 6, 2004. He diagnosed the mass as a benign lipoma without doing any type of x-ray and said it was nothing to worry about. I asked, "If that is so, why am I having abdominal pain?" He said, "I can't explain all your little aches and pains, but the lipoma is benign and nothing to worry about." He also said that he would schedule follow-up visits to check the growth of the tumor periodically.

The abdominal pain, severe constipation and nausea continued, so I requested medical attention again and again. On July 17, 2004, I saw Dr. Peasant. He examined my abdomen and said that he was ordering a sonogram, because he thought I might have chronic appendicitis.

On July 20, 2004, I saw Dr. Englehardt again. He told me that he was canceling the sonogram, because he preferred not to do one at that time.

On August 18, 2004, I saw Dr. Englehardt again. He ordered labwork and prescribed a laxative.

On September 3, 2004, I filed a medical complaint with healthcare and sent a request to Warden Albright.

On November 2, 2004, I saw Dr. Tasson at the South Louisiana Correctional Center. He diagnosed the mass on my left side as a lipoma and said that it needed to be removed as soon as possible to prevent the choking or



blocking of my organs. I was told that my name would be put on the referral list to see an outside doctor.

On January 23, 2005, I requested medical attention for constipation and pain in my left side and abdomen. I asked Nurse Jimmy to check on my appointment to see an outside doctor.

On January 26, 2005, my bowels were blocked and I was in severe pain. Lt. Bell talked to the nurse and got a saline enema for me. My bowels gradually began to move again.

I saw Dr. Tasson again on February 11, 2005. The Director of Nursing, Michelle Maxie, told me that they could not do anything for me, because Alabama would not allow them to do the surgery. She also told me that I would be transported back to Alabama, and that Alabama was aware of my problem.

I was transported back to Tutwiler on March 25, 2005. After repeatedly requesting medical attention, I saw Dr. Peasant on April 12, 2005. He ordered a sonogram and a mammogram.

On May 8, 2005, I asked about the sonogram and mammogram which Dr. Peasant ordered on April 12, 2005. The nurse found the doctor's orders in my medical chart. The appointments had not been scheduled. She removed the doctor's orders from my chart and put it on his desk along with a note to let him know that the x-rays had not been done.

I filed an informal grievance, formal grievance and a grievance appeal with healthcare. All grievances were ignored.

On May 16, 2005, I saw Dr. Daly at Montgomery Surgical Center. Dr. Daly's diagnosis was lipomas and bowel obstruction. Dr. Daly said he wanted to remove the lipomas first and see if that would resolve the problem.

On June 9, 2005, I asked about the sonogram, mammogram and surgery. The nurse said that she could not find an order or an appointment for the x-rays which Dr. Peasant had ordered on April 12, 2005, but an appointment was scheduled for the lipoma surgery.

On June 24, 2005, I had lipoma surgery. They discovered that my heart rate had dropped to 40. The doctor asked if I had a family history of congestive heart failure or rhythmic heart problems. I told him that most of my relatives had died from heart attacks, but I did not know the cause. I was told to make sure that Prison Health Services was aware of my low heart rate, so they could run tests and determine the cause. Later, I learned that I have a family history of congestive heart failure and rhythmic heart problems.

After having the lipoma surgery on June 24, 2005, I have continued to have a low heart rate and suffer from bowel obstruction. I have repeatedly requested medical attention for the bowel obstruction and the low heart rate. Dr. Englehardt continues to prescribe laxatives for the bowel obstruction and ignores the problem with my heart rate.

I filed medical grievances with healthcare. Then I sent a request and

a copy of the grievances to Deputy Warden Albright. I did not get a response from healthcare or Warden Albright.

I saw Dr. Englehardt on September 8, 2005. He treated me for a hormone imbalance and prescribed a laxative for the bowel obstruction.

I saw Dr. Williams on November 3, 2005. He said that I had a small lipomas in the soft area between my ribs on my left side, a buildup of scar tissue, and a possible hernia in the center of my abdomen. He discontinued the INH and Vitamin B6 and ordered labwork. He said that he was going to review my other medical chart. Then he referred me to Dr. Englehardt for the female problems.

I saw Dr. Englehardt on November 8, 2005. He prescribed Provera for the bleeding and Lasex for the swelling and ordered a sonogram.

I had the sonogram on December 6, 2005.

I saw Dr. Englehardt on December 29, 2005. He said the sonogram showed fibroid cysts in my female organs and an enlargement of my uterus. Dr. Englehardt told me to sign up again if I continued to bleed excessively. He said that he would treat my condition with Provera. He said that he would order a D+C if the Provera did not resolve the problem. Dr. Englehardt said that he would order a partial hysterectomy as a last resort.

On January 12, 2006, I requested medical attention for abdominal pain and swelling, back pain, vaginal pain when sitting, nausea and



headache.

I saw Dr. Englehardt on January 18, 2006. Dr. Englehardt prescribed Provera for my female problems. Then he referred me to Dr. Williams for the other problems.

I continue to suffer from back pain and abdominal pain and swelling. I am in constant and severe pain every day. By the end of each day, I am swollen so much until I look like I am pregnant.

I pray that the court will appoint legal representation for me, because I have very little legal knowledge. I pray that the court will grant me adequate medical care. I further pray that the court will grant compensation for my pain and suffering, mental and emotional anguish, attorney's fees, court costs, and any other compensation which the court deems appropriate.

Debra Joyce Clackler  
Signature of Plaintiff

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2-21-06

Debra Joyce Clackler  
Signature of Plaintiff

Exhibit “B”  
Certified Mail Return Receipt



*Clackler*

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	A. Signature <input checked="" type="checkbox"/> <i>Susie Mins</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to:  Dr. Samuel Englehardt Julia Tutwiler Prison for Women c/o The Health Care Unit 8966 Highway 231 Wetumpka, AL 36092	B. Received by (Printed Name) <i>Susie Mins</i> C. Date of Delivery
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
	Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
2. Article Number (Transfer from service label)  PS Form 3811, February 2004	7005 1160 0001 2962 4042 Domestic Return Receipt 102595-02-M-1540